

## **CHAPTER 3.17**

### **Development Revenue Bonds**

#### **3.17.010 Declaration of policy.**

It is declared to be the policy of the City to encourage the location, relocation, or expansion of manufacturing, industrial, or commercial enterprises within the corporate limits of the City, and to that end to issue development revenue bonds pursuant to the 1967 County and Municipality Development Bond Act, as set forth in Section 29-3-101, et seq., C.R.S. This policy is adopted in furtherance of the primary objectives to mitigate the serious threat of extensive unemployment, to secure and maintain a balanced and stable economy, to ameliorate pollution and other environmental problems, and to provide for the public welfare. All such action provided under this policy, as set forth in Sections 3.17.020 and 3.17.030 below, shall be taken only when the same is exercised for the benefit of the inhabitants of the City and for the promotion of their safety, welfare, convenience and prosperity. In furtherance of the policy set forth in this Section, the City Council declares that:

A. The City Council will make all necessary determinations of the desirability of projects and will not delegate this determination to any agent, contractor, or employee of the City.

B. The City will not employ the provisions of the 1967 County and Municipality Development Revenue Bond Act to industries presently located in other parts of the State if the result of such act is to induce removal of these industries from their present location.

C. The City will require information and proof of such matters necessary to establish the bona fide purposes of the applicant, while not unnecessarily divulging information to the competitive disadvantage of the applicant.

D. The City Council will, in performing its duties, seek to protect and enlarge the good fiscal reputation of the City.

E. Material supplied under the following sections of this Chapter shall become the property of the City and shall be public records. (Ord. 605 85, 1985)

#### **3.17.020 City planning criteria.**

A. All proposed projects shall be in accordance with and shall meet the goals, concepts, and objectives for development as set forth in the City's comprehensive master plan.

B. The property on which any such project is to be located must be within the corporate boundaries of the City, and such property must have affixed thereto a zoning district classification of the City which permits the proposed project use.

C. The plans for the proposed project shall be in strict compliance with appropriate zoning and subdivision regulations of the City.

D. The City Council will review and determine the adequacy of water and sewer services prior to approval.

E. The proposed project plans shall be reviewed and analyzed by the City Council to determine necessary off site capital improvements including, but not limited to, streets, curbs, gutters, sidewalks, utility easements, water and sewer lines, and traffic control devices. Such analysis is for the purpose of determining the impact of such development upon other municipal services and facilities. The determination of which parties shall bear the cost of any required off-site improvements shall be set forth in an agreement between all parties in interest prior to the consideration by the City Council of a resolution of intent to issue bonds for the project. (Ord. 605 85, 1985)

### **3.17.030 Application requirements.**

In order to properly process and consider applications to issue bonds for projects set forth in this Chapter, certain criteria, procedures, guidelines, and requirements shall be followed and submitted by the applicants as set forth below:

A. A written legal opinion directed to the City Council from an attorney who is a qualified municipal bond counsel, stating that the applicant's proposal falls within the intent and meaning of the Economic Development Revenue Bond Act. Bond counsel shall be selected by the applicant with the final approval of the City Council.

B. Evidence that the proposed bond issue can be sold through an acceptable underwriter or to an experienced investor or group of investors.

C. A written application containing the following information:

1. A history of the applicant, including a description of its operations;
2. Historical financial statistics of applicant for the last five (5) years or for the entire time it has conducted business. If the applicant is proposing co-signers or guarantors of the bond issue, this same historical financial data must be supplied for the co-signers or guarantors.
3. A written report from the applicant's principal banker concerning the applicant's financial position and ability to meet the expense of the proposed bond issue. The applicant should also provide a Dunn and Bradstreet Report or other equivalent national rating of its financial position;
4. Major customers of applicant and the annual sales to each for the preceding two (2) years;
5. A resume of principals and key employees of applicant, including directors and officers, if the applicant is a corporation;
6. The applicant's pro forma balance sheets, income statements, and cash flow projections for the next five (5) years, reflecting the proposed revenue bond issue;
7. The applicant's prepared financial statements dated within sixty (60) days of the application date;
8. Copies of the applicant's financial statements, either audited or otherwise satisfactory to the City Council, for the preceding five (5) years or the entire time during which the applicant has conducted business;
9. Complete list of assets to be purchased or constructed and expenses incidental to the acquisition, including costs of the sale of the revenue bonds;

10. A payment schedule or formula for retirement of the bonds and payment in lieu of taxes and cost of maintaining the project in good repair and properly insured;

D. An initial application fee of five hundred dollars (\$500.00) to defray the costs of the City's analysis of the proposal as set forth in Section 3.17.040 below shall be tendered with the application.

E. Other information specifically desired by the City Council not set forth above.

F. The City Council, by majority vote, may waive specific information required in the written application for new concerns that have not been in operation for the last five (5) years. The City Council, however, may request additional information in lieu of the information waived. (Ord. 605 85, 1985)

### **3.17.040 Council review of application.**

At such time as the applicant has provided all of the required information and met all of the above stated requirements, the City shall conduct an analysis of the information and the suitability of the proposal for implementation under this Chapter.

A. A City review team shall be responsible for analyzing the application and making recommendations to the City Council concerning the advisability of proceeding with the proposed bond issue. The review team shall consist of the City Manager, the City Planner, and the City Attorney. In addition, the review team may engage outside counsel for the purpose of rendering opinions and doing research on the proposed bond issue.

B. The recommendation of the review team shall include an analysis of the impact of the development upon the City and upon any other interested city or county governments. The form of agreement for any required off-site improvements shall also be recommended by the review team of the City Council. The review team may recommend that certain conditions be placed upon the applicant to further insure the repayment of the bonds and may recommend that the applicant provide a guaranteed construction contract or a completion bond prior to undertaking the proposed project.

C. At such time that the review team has presented its recommendation, impact analysis, and off-site improvement agreement to the City Council and to the applicant, the City Council shall schedule a public hearing for the purpose of discussing the application and considering public comment on the proposed bond issue. At the close of such public hearing, the City Council may determine whether or not to proceed to issue the bonds and shall adopt a resolution formally declaring its intent.

D. If the City Council has considered the application and the report from the review team, has conducted a public hearing on the application, and has adopted a resolution of intent to issue the proposed bonds, it shall direct the review team to prepare the bond issue. The review team will work with the applicant and with an investment banker and bond counsel suitable to the applicant and to the City. (Ord. 605 85, 1985)

### **3.17.050 Additional fees upon adoption of resolution of intent to issue.**

A. Upon adoption of the resolution of intent to issue the bonds, a fee in addition to the fees provided in Section 3.17.030.D above shall be assessed in the amount of one-half of one percent (0.5%) of the total face amount of the bond issue. Such fee shall be paid to the City within thirty (30) days of the date of such resolution to defray the cost of processing of the bond issuance and legal counsel.

B. The minimum charge pursuant to Subsection A above shall be two thousand five hundred dollars (\$2,500.00) and the maximum charge shall be the sum of ten thousand dollars (\$10,000.00), and such fees shall be assessed regardless of whether or not such bonds are ever issued or sold.

C. If the City Council desires to engage a bond counsel in addition to the one engaged by the applicant, for the purpose of reviewing any documents, the fee of such bond counsel shall be payable by the applicant.

D. The City Council may engage other outside experts for purposes of reviewing the application. The applicant shall be responsible for paying any fees charged by such outside experts for their services. (Ord. 605 85, 1985)